

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**IN RE: Bill of Lading Transmission and
Processing System Patent Litigation**

This document relates to:

R+L CARRIERS, INC.

Plaintiff,

vs.

MICRODEA, INC.

Defendant.

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) MDL Docket No. 1:09-md-2050
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) JUDGE BECKWITH
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) Case No. 1:09-cv-179
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) **Jury Demand Endorsed Herein**
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**R+L CARRIERS, INC.’S FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT AND DECLARATORY JUDGMENT**

(“R+L”) states the following for its Amended Complaint against Microdea, Inc.

(“Microdea”):

Nature of the Action

1. This is an action for patent infringement in violation of 35 U.S.C. § 271(b) and (c), and for a declaratory judgment as to Microdea’s patent infringement.

Jurisdiction and Venue

2. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has general personal jurisdiction over Microdea because of its continuous and systematic contacts with the State of Ohio. On its own website, Microdea

acknowledges that it maintains significant business relationships with customers doing business in Ohio, including, but not limited to, Cowan Systems, LLC, a truckload carrier who, upon information and belief, is actively recruiting additional employees in Ohio. In addition, Microdea acknowledges on its website that it is the “proud partner of TMW Systems and provides their customers with leading edge document and imaging solutions.” Upon information and belief, TMW Systems is a trucking software company that is incorporated and headquartered in Ohio, and Microdea’s partnership with TMW Systems includes substantial business activity within the state of Ohio.

4. Upon information and belief, this Court has specific personal jurisdiction over Microdea because it has caused and induced others to use its hardware device, the Synergize On-Ramp In-Cab Scanner, within the state of Ohio in a manner that infringes on a patent owned by R+L, causing R+L harm and tortious injury in this judicial district.

5. Venue is appropriate in this judicial district pursuant to 28 U.S.C. §§ 1391(d) and 1400(b).

The Parties

6. R+L is a corporation organized and existing under the laws of the State of Ohio, and has its principal place of business at 600 Gillam Road, Wilmington, Ohio 45177.

7. Microdea is a Canadian corporation with its headquarters at 15 Wertheim Court, Suite 301, Richmond Hill, Ontario, L4B 3H7.

The Infringed Patent

8. The United States Patent and Trademark Office duly and legally issued United States Patent No. 6,401,078 B1 (“the ‘078 Patent”) entitled “Bill of Lading Transmission and

Processing System for Less Than a Load Carriers” on June 4, 2002. A copy of the ‘078 Patent is attached as Exhibit A.

9. The ‘078 Patent claims a process directed to the transfer of shipping documentation for a package (freight) to a processing center. In particular, documentation for a package is scanned and transmitted wirelessly to a remote processing center. The processing center then prepares a loading manifest that includes the package, prior to the package being removed from the transporting vehicle.

10. R+L owns all rights, title and interest in the ‘078 Patent via assignment.

Actions Giving Rise to this Complaint

A. MICRODEA’S PRODUCTS AND SERVICES

1. The Synergize OnRamp In-Cab Scanning

11. Microdea offers fully integrated, technological solutions to several industries, including the transportation industry. Microdea dedicates itself to “driving true innovation in document automation solutions and creating real business value” to help its clients “manage and improve [their] enterprise, business, organization or department by creating the maximum benefits and costs savings.” See <http://www.microdea.com/corporate.aspx?id=266>, last visited March 29, 2010 (attached hereto as Exhibit B).

12. Microdea offers its technology platform, Synergize, as “the catalyst that integrates people, paper and processes.” *Id.*

13. With respect to the transportation industry, Microdea advertises that its “Synergize solution is the catalyst to reduce costs & improve processes.” See <http://www.microdea.com/transportation/default.aspx>, last visited March 29, 2010 (attached hereto as Exhibit C).

14. Microdea markets and sells OnRamp In-Cab Scanning to its trucking clients as part of its Synergize Solutions. According to Microdea, “Synergize OnRamp In-Cab Scanning from Microdea represents an enormous change in how documents are transferred from driver to billing. **Instead of waiting for drivers to reach their home terminal, cabs are equipped with an easy to use scanning solution enabling the driver to scan POD and BOL [bills-of-lading] documents and send them through the existing mobile communications system directly to your billing center for immediate processing.**” *See* [http://www.microdea.com/transportation In Cab Scanning workflow scanning imaging.html?linkidentifier=id&itemid=338](http://www.microdea.com/transportation%20In%20Cab%20Scanning%20workflow%20scanning%20imaging.html?linkidentifier=id&itemid=338), last visited March 29, 2010 (emphasis added) (attached hereto as Exhibit D).

15. Microdea further promotes on its website that “In-Cab Scanning eliminates the need for expensive truckstop based scanning and courier services.” *Id.*

16. During the In-Cab Scanning process, “Synergize OnRamp scans, encodes and submits the document images to the mobile communications system for transmission, send[s] them to the Synergize OnRamp Decoder operating at [the customer’s] site, all without the truck having left the drop-off terminal.” *Id.*

17. According to the Synergize OnRamp In-Cab Scanning brochure available on Microdea’s website, the “Synergize OnRamp Decoder is a Microsoft Windows service which retrieves and decrypts data files . . . for use with any document imaging system.” *See* “Synergize OnRamp In-Cab Scanning” Brochure (attached hereto as Exhibit E).

18. Moreover, the Synergize OnRamp system “encrypts scanned images, index[es] information into data files and automatically transmits those files through the mobile communications system (not included). Together with the integrated scanner, it is a self-

contained unit requiring no configuration in the field and is wired directly into the 12V panel with a single supplied cable, or to the cigarette lighter with an optional adapter.” *Id.*

19. Microdea informs potential clients that “[d]ocuments form the basis of most business operations and their execution directly affects profitability. Synergize harmonizes the management of documents in a consistent, accurate and cost-effective manner.” *Id.*

20. A reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea’s trucking customers use Synergize OnRamp In-Cab Scanning. R+L hereby asserts this reasonable inference as true.

21. Another reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea’s trucking customers use Synergize OnRamp In-Cab Scanning from onboard the truck, specifically “in-cab.” R+L hereby asserts this reasonable inference as true.

22. Another reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea’s trucking customers use the Synergize OnRamp In-Cab Scanning to capture bills-of-lading. R+L hereby asserts this reasonable inference as true.

23. Another reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea’s trucking customers use Synergize OnRamp solutions to wirelessly transmit bills-of-lading information. R+L hereby asserts this reasonable inference as true.

24. Another reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea’s trucking customers transmit bill-of-lading information to the “home terminal.” R+L hereby asserts this reasonable inference as true.

25. Yet another reasonable inference to be drawn from the facts set forth in Paragraphs 11-19 of the Amended Complaint is that Microdea's trucking customers can improve "profitability" and be "cost-effective" by preparing loading manifests from the scanned and transmitted bills-of-lading. R+L hereby asserts this reasonable inference as true.

26. These facts and reasonable inferences establish that Microdea actively encourages trucking customers to practice the method taught in the '078 Patent.

27. These facts and reasonable inferences also establish that Microdea affirmatively intends to contribute to and actively induce the infringement of the '078 Patent by marketing and selling Synergize OnRamp In-Cab Scanning, knowing the same to be especially made or especially adapted for use in infringement of the '078 Patent, and not a staple article or commodity of commerce for substantial noninfringing use, and encouraging motor carriers to remotely transmit shipping documents from onboard a motor vehicle to a remote processing facility. There, a loading document is prepared that includes the further transport of goods on another vehicle. Microdea does so without leave or license of R+L, and in violation of R+L's rights.

2. *Synergize OnRamp's Applications with Truckload and LTL Operations*

28. Microdea markets and sells its Synergize solutions to clients engaged in Truckload Operations. Specifically, Microdea advertises to those clients that "Synergize solutions provide powerful scanning, imaging, workflow, process management and print rendition billing, specifically designed for the truckload transportation sector." See http://www.microdea.com/transportation_truckload_operations_workflow_scanning_imaging.html?linkidentifier=id&itemid=678, last visited March 29, 2010 (attached hereto as Exhibit F).

29. Microdea encourages clients engaged in Truckload Operations to “[s]can all your critical truck documents with Synergize and they become instantly available and viewable on-screen. With Synergize’s complete document workflow automation solution, you will never waste time searching for load paperwork again, allowing you to grow and maintain your business while maintaining current administrative staffing levels.” *Id.*

30. Microdea further advertises to its clients engaged in truckload operations that Synergize provides “support for automatic collation of supporting documents and transmission of invoices,” “integration with today’s leading Transportation Management Systems” and “advanced handling—with machine-readable bar codes and data retrieval from the dispatch solution.” *Id.*

31. Microdea specifically markets and sells Synergize to its trucking clients engaged in less than truckload (“LTL”) operations. Microdea offers Synergize to its LTL clients to provide “reliable, flexible and integrated document automation solutions” and “includes scanning, imaging, workflow, process management and print rendition billing to increase your organization’s productivity, reduce operation costs, improve customer service and deliver cost savings.” *See*

http://www.microdea.com/transportation_LTL_operations_workflow_scanning_imaging.html?linkidentifier=id&itemid=692, last visited March 29, 2010 (attached hereto as Exhibit G).

32. Specifically, Microdea advertises that “Synergize automatically scans all LTL freight bills directly into the system. Freight bills are instantly available and can be viewed online by employees at different locations, eliminating valuable time spent on manually searching for freight bills and supporting documents.” *Id.*

33. Microdea tells its customers engaged in LTL operations that Synergize provides “increased productivity—manage more documents with automatic collation of supporting documents”; “integration with today’s leading Transportation Management Systems”; and “[a]dvance handling—with machine-readable bar codes and data retrieval from the dispatch solution.” *Id*

34. On its website, Microdea further tells its customers engaged in LTL operations that Synergize has the following features:

- Document capture—scanning and imaging of documents, fax, ftp and email
- Workflow—routes your documents quickly and accurately
- Synergize Process Server—easy to design, build, manage, deploy and maintain automated business processes.
- Ease of use—easily integrated with many leading transportation management and accounting software systems.
- E-Invoicing—automatically formats and distributes invoices to streamline and accelerate your billing process; reduces Days Sales Outstanding (DSO)
- Automatic indexing—Optical Character Recognition (OCR) provides data flexibility
- Document retention—ensures regulatory compliance for storage and security
- Document Security—controls and monitors document access and provides electronic audit trails.

Id.

35. A reasonable inference to be drawn from the facts set forth in Paragraphs 28-34 of the Amended Complaint is that Microdea’s clients engaged in Truckload and LTL Operations use Synergize OnRamp In-Cab Scanning to wirelessly transmit data from their truck cabs. R+L hereby asserts this reasonable inference as true.

36. Another reasonable inference to be drawn from the facts set forth in Paragraphs 28-34 of the Amended Complaint is that Microdea’s clients engaged in Truckload and LTL Operations use Synergize OnRamp solutions to access the data, such as bills-of-lading, sent from the truck cabs “by employees at different locations” through their back office. R+L hereby asserts this reasonable inference as true.

37. Another reasonable inference to be drawn from the facts set forth in Paragraphs 28-34 of the Amended Complaint is that Microdea's clients engaged in Truckload and LTL Operations use Synergize OnRamp solutions "for advance handling" and "data retrieval through the dispatch solution" to prepare advance loading manifests from the transmitted data, such as bills-of-lading, as a part of the trucking customer's dispatch operations. R+L hereby asserts this reasonable inference as true.

38. These facts and reasonable inferences establish that Microdea actively encourages trucking customers to practice the method taught in the '078 Patent.

39. Thus, Microdea affirmatively intends to contribute to and actively induce infringement of the '078 Patent by marketing and selling Synergize OnRamp solutions, knowing the same to be especially made or especially adapted for use in infringement of the '078 Patent, and not a staple article or commodity of commerce for substantial noninfringing use, and encouraging motor carriers to remotely transmit shipping documents from onboard a motor vehicle to a remote processing facility. There, a loading document is prepared that includes the further transport of goods on another vehicle. Microdea does so without leave or license of R+L, and in violation of R+L's rights.

B. MICRODEA'S CUSTOMERS DIRECTLY INFRINGE THE '078 PATENT

1. Berry & Smith Trucking Ltd.

40. Berry & Smith Trucking Ltd. ("Berry & Smith") is a trucking company that specializes in over-the-road transportation using dry vans and flat decks, intermodal transportation services and truckload brokerage services. Berry & Smith serves all of Canada and is licensed to operate, and does in fact operate, in the continental United States.

41. In or around September 2007, Berry & Smith announced via a press release that it was looking forward to using In-Cab Scanning offered by Microdea in partnership with PeopleNet Communications Corporation (“PeopleNet”). According to Dorothy Vankoughnett, controller and IT manager for Berry & Smith, “We are looking to In-Cab Scanning to improve driver efficiency by expediting document flow to and from the vehicle, whether that be customer required documents, documents to assist cross-border travel or vehicle documents.” *See* <http://www.thomasnet.com>, last visited on July 15, 2009 (the “September 2007 Press Release”) (attached hereto as Exhibit H).

42. The quote from Ms. Vankoughnett set forth in Paragraph 41 of the Amended Complaint is also used in Microdea’s marketing materials promoting Synergize OnRamp In-Cab Scanning. *See* Exhibit E.

43. The September 2007 Press Release described the In-Cab Scanning function as providing “the capability to scan and transmit documents directly from the cab of a truck using the advanced technology of Microdea and the superior power and economical bandwidth of PeopleNet mobile communications.” *Id.*

44. According to the September 2007 Press Release, “In-Cab Scanning enablew drivers to scan and transmit critical transportation documents, such as bills of lading and signed delivery receipts, immediately from virtually anywhere.” *Id.* (emphasis added). Furthermore, “with documents in hand, dispatch will be able to more quickly and surely dispatch loads and assign drivers”. *Id.* (emphasis added)

45. In a separate press release found on Microdea’s website, Microdea allows Berry & Smith “to transmit cargo manifests, billing orders and other documents directly to drivers on the road.” Ms. Vankoughnett is further quoted as saying “You’re always trying to get ways of

better communicating with your drivers . . . We want our drivers to be driving, not caught up in paperwork.” See <http://www.microdea.com/transportation/news.aspx?id=304>, last visited March 29, 2010 (attached hereto as Exhibit I).

46. An article from the October 30, 2007 issue of The Penticton Herald reported that on or around October 29, 2007, the first two prototypes of in-cab scanners were installed into Berry & Smith’s trucks. The article reported that “[e]ventually more than 120 of their trucks will be equipped with the devices.” See “Truckers Get In-Cab Scanners,” *The Penticton Herald*, Oct. 30, 2007 (attached hereto as Exhibit J).

47. The reasonable inference to be drawn from the facts set forth in Paragraphs 40-46 of the Amended Complaint is that Microdea actively induced Berry & Smith to use Synergize OnRamp In-Cab Scanning in combination with other services and devices to scan and wirelessly transmit bills-of-lading from inside the truck cab to the back office where advance loading manifests are prepared. Those actions constitute direct infringement of the ‘078 Patent. R+L hereby asserts this reasonable inference as true.

48. Another reasonable inference to be drawn from the facts set forth in Paragraphs 40-46 of the Amended Complaint is that Microdea contributorily infringed the ‘078 Patent by selling and providing Synergize OnRamp In-Cab Scanning in combination with other services and devices to Berry & Smith, knowing the same to be especially made or especially adapted for use in infringement of the ‘078 Patent, and not a staple article or commodity of commerce for substantial noninfringing use, in order for Berry & Smith to directly infringe the ‘078 Patent by scanning and wirelessly transmitting bills-of-lading from inside the truck cab to the back office where advance loading manifests are prepared. R+L hereby asserts this reasonable inference as true.

2. Pitt Ohio Express, Inc.

49. Pitt Ohio Express, Inc. (“Pitt Ohio”) is a trucking company that specializes in LTL trucking services. Pitt Ohio operates its fleet in the Mid-Atlantic and Midwest United States and, with its membership in the Reliance Network, a business alliance of six regional LTL carriers, Pitt Ohio provides service to its customers throughout all of North America.

50. On or around February 17, 2009, PeopleNet’s CEO, Ron Konezny, and PeopleNet’s Regional Account Manager, Rich Kurtz, met with Rob Bowman of Paramount Transportation Logistics Services, LLC in Ellenton, FL. During that meeting, Mr. Konezny and Mr. Kurtz informed Mr. Bowman that (i) PeopleNet worked with Microdea and EBE Technologies, Inc. (“EBE”) to provide scanning capability to PeopleNet’s g3 across certain of Pitt Ohio’s fleet, (ii) Pitt Ohio scans the documents using Fujitsu S300 scanners in conjunction with PeopleNet’s hardware, and (iii) Pitt Ohio then uses Microdea’s image handling services and EBE’s business process management software to handle, process, and use the scanned images.

51. A reasonable inference to be drawn from the facts set forth in Paragraphs 49-50 of the Amended Complaint is that Microdea either has, or is currently conspiring, collaborating, and colluding with PeopleNet and EBE to provide a process to Pitt Ohio for scanning and wireless transmitting bills-of-lading from the truck cab to a remote processing facility for use in preparing advance loading manifests. R+L hereby asserts this reasonable inference as true.

52. Yet another reasonable inference to be drawn from the facts set forth in Paragraphs 49-50 of the Amended Complaint is that Pitt Ohio has tested, used, is testing or is using Synergize OnRamp solutions in combination with hardware and software that Microdea has, or is currently conspiring, collaborating and colluding with PeopleNet and EBE to provide. R+L hereby asserts this reasonable inference as true.

53. Another reasonable inference to be drawn from the facts set forth in Paragraphs 49-50 of the Amended Complaint is that Microdea actively induced and/or actively induces Pitt Ohio to test or use Synergize OnRamp solutions in combination with other services and devices to scan and wirelessly transmit bills-of-lading from inside the truck cab to the back office where advance loading manifests are prepared. Those actions constitute direct infringement of the '078 Patent. R+L hereby asserts this reasonable inference as true.

54. Another reasonable inference to be drawn from the facts set forth in Paragraphs 49-50 of the Amended Complaint is that Microdea contributorily infringed the '078 Patent by selling and providing Synergize OnRamp solutions in combination with other services and devices to Pitt Ohio, knowing the same to be especially made or especially adapted for use in infringement of the '078 Patent, and not a staple article or commodity of commerce for substantial noninfringing use, in order for Pitt Ohio to directly infringe the '078 Patent by scanning and wirelessly transmitting bills-of-lading from inside the truck cab to the back office where advance loading manifests are prepared. R+L hereby asserts this reasonable inference as true.

55. To the extent that a mastermind is required to be identified, the reasonable inference to be drawn from the allegations contained in this Amended Complaint is that PeopleNet is the mastermind of the collaboration between PeopleNet and Microdea, and that, despite this, Microdea has actively collaborated with PeopleNet to infringe the '078 Patent. R+L hereby asserts this reasonable inference as true.

C. MICRODEA'S STRATEGIC PARTNERSHIP WITH PEOPLENET

56. Microdea has partnered with PeopleNet to offer products to customers in the transportation and trucking industry.

57. PeopleNet is a mobile communications and onboard computing provider for its clients in the transportation industry.

58. PeopleNet sells to its customers “handheld/portable solutions for wireless proof-of-delivery and inventory management.” *See* <http://www.peoplenetonline.com/ProductsServices.aspx?id=56>, last visited on March 29, 2010 (attached hereto as Exhibit K).

59. Specifically, PeopleNet markets and sells the g3 Onboard Computing System (“g3”). The g3 provides PeopleNet’s customers with “[m]obile communications, onboard computing and fleet management in one powerful platform.” *See* <http://www.peoplenetonline.com/ProductsServices.aspx?id=67> last visited March 29, 2010 (attached hereto as Exhibit L).

60. The g3 further provides PeopleNet’s customers with a “[m]ulti-network with nearly 100 wireless carriers utilized across digital and analog channels to provide the highest level of coverage, bandwidth and cost effectiveness.” *Id.*

61. On or about September 9, 2007, *FleetOwner* reported that PeopleNet “is introducing In-Cab Scanning . . . [which] allows documents to be scanned and transmitted directly from the cab of a truck.” *See* “PeopleNet Reveals In-Cab Document Scanning,” *FleetOwner*, dated September 19, 2007 at ¶ 1 (“the *FleetOwner* Article,” attached hereto as Exhibit M).

62. The *FleetOwner* Article further reported that In-Cab Scanning utilized “the advanced technology of Microdea and the superior power and economical bandwidth of PeopleNet mobile communications.” *Id.*

63. The *FleetOwner* Article further stated that according to PeopleNet, drivers use In-Cab Scanning to scan and transmit critical transportation documents, such as bills-of-lading, immediately from virtually anywhere. *Id.*

64. In-Cab Scanning “speeds the business cycle for carriers [and] eliminates the need for truck stop scanning.” *Id.*

65. Microdea partners with PeopleNet to provide In-Cab Scanning. “Microdea supplies a rugged, small-footprint scanning device that securely mounts in the truck cab.” *Id.*

66. Microdea’s trucking customers, like Berry & Smith and Pitt Ohio, transmit scanned documents from the truck cab using the open interface of PeopleNet’s g3. Microdea captures those documents and makes them immediately available to the customer’s document management provider. *Id.*

67. A reasonable inference to be drawn from the facts set forth in Paragraphs 56-66 of the Amended Complaint is that Microdea and PeopleNet have actively taken steps to collaborate and cross-sell one another’s products. R+L hereby asserts this reasonable inference as true.

68. Another reasonable inference to be drawn from the facts set forth in Paragraphs 56-66 of the Amended Complaint is that Microdea and PeopleNet have collaborated to entice trucking customers to purchase and use their technology and products in conjunction with one another’s products. R+L hereby asserts this reasonable inference as true.

69. Another reasonable inference to be drawn from the facts set forth in Paragraphs 56-66 of the Amended Counterclaim is that Microdea collaborates with PeopleNet to specifically tailor its Synergize OnRamp solutions so that its trucking customers can scan bills-of-lading from inside the truck cab. R+L hereby asserts this reasonable inference as true.

70. Another reasonable inference to be drawn from the facts set forth in Paragraphs 56-66 of the Amended Complaint is that Microdea collaborates with PeopleNet so that trucking customers can wirelessly transmit bills-of-lading from inside the truck cab to a remote location where the bills-of-lading are processed and loading manifests are prepared. R+L hereby asserts this reasonable inference as true.

71. These facts and reasonable inferences establish that Microdea actively encourages trucking customers to practice the method taught in the '078 Patent.

72. Thus, Microdea affirmatively intends to contribute to and actively induce the infringement of the '078 Patent by marketing and selling Synergize OnRamp solutions, and encouraging motor carriers to remotely transmit shipping documents from onboard a motor vehicle to a remote processing facility. There, a loading document is prepared that includes the further transport of goods on another vehicle. Microdea does so without leave or license of R+L, and in violation of R+L's rights.

COUNT I—CONTRIBUTORY INFRINGEMENT

A. MICRODEA SELLS SYNERGIZE ONRAMP SOLUTIONS SO THAT ITS TRUCKING CUSTOMERS CAN PRACTICE THE '078 PATENT

73. R+L repeats and realleges the allegations contained in Paragraphs 1-72 above as if fully set forth herein.

74. Microdea markets Synergize OnRamp solutions on its website to customers in the trucking and transportation industry. *See* Exhibits B, C, D, F, G, I.

75. Microdea describes for potential customers how trucking companies can use Synergize OnRamp solutions to scan critical transportation documents, such as bills-of-lading, inside the truck cab. *See id.*

76. Microdea further instructs potential customers how trucking companies can use Synergize OnRamp solutions to wirelessly transmit transportation documents, such as bills-of-lading, from inside the cab. *See id.*

77. Microdea's customers, like Berry & Smith and Pitt Ohio, use Synergize OnRamp solutions to scan bills-of-lading from inside the truck cab, wirelessly transmit those scanned bills-of-lading to their back offices, and prepare advance loading manifests.

78. Thus, Microdea sells, and has sold, Synergize OnRamp solutions to its trucking company customers for the purpose of those customers practicing the '078 Patent.

B. MICRODEA'S SYNERGIZE ONRAMP SOLUTIONS ARE A MATERIAL PART OF THE PROCESS TAUGHT IN THE '078 PATENT

79. R+L repeats and realleges the allegations contained in Paragraphs 1-78 above as if fully set forth herein.

80. Microdea provides Synergize OnRamp solutions to its trucking customers to send and receive transmissions from the Synergize OnRamp In-Cab Scanner. *See id.*

81. Without Synergize OnRamp solutions, Microdea's trucking customers would not be able to transmit any data from inside the cab.

82. Microdea provides software through Synergize OnRamp solutions so that its trucking customers can prepare dispatch and loading manifests from data that is transmitted wirelessly from inside the cab while the truck is still en route.

83. Without Synergize OnRamp solutions, Microdea's customers would not have any data sent from the truck cab from which they prepare dispatch and loading manifests.

84. Without Synergize OnRamp solutions, Microdea's customers, like Berry & Smith and Pitt Ohio, would be unable to scan bills-of-lading from inside the truck cab, wirelessly

transmit those scanned bills-of-lading to their back offices, and prepare advance loading manifests.

85. Thus, Synergize OnRamp solutions are a critical component and material part of practicing the process taught in the '078 Patent.

C. MICRODEA'S SYNERGIZE ONRAMP SOLUTIONS ARE SPECIFICALLY ADAPTED FOR USE IN PRACTICING THE '078 PATENT

86. R+L repeats and realleges the allegations contained in Paragraphs 1-85 above as if fully set forth herein.

87. PeopleNet's press release announcing its partnership with Microdea specifically stated that In-Cab Scanning "enables drivers to scan and transmit critical transportation documents such as bills of lading and signed delivery receipts." *See* Exhibit H.

88. Microdea's customers, like Berry & Smith and Pitt Ohio, have customized Synergize OnRamp solutions to scan bills-of-lading from inside the truck cab, wirelessly transmit those scanned bills-of-lading to their back offices, and prepare advance loading manifests.

89. Indeed, Microdea publicizes that "[i]rrespective of fleet size or complexity of business model, Microdea clients are characterized by a high level of customer satisfaction and an aggressive return on investment" with Synergize OnRamp In-Cab Scanning. *See* Exhibit E.

90. Microdea advertises that its consultants "coordinate the strategic planning, development, and deployment of Synergize solutions. The strategic plan is tailored to address [the customer's] specific business needs, enabling [the customer] to streamline internal processes and increase [its] ability to achieve corporate goals, through increased operational efficiency and predictable process consistency." *See*

http://www.microdea.com/consulting_strategic_planning_workflow_design.html, last visited March 26, 2010 (attached hereto as Exhibit N).

91. Thus, Micordea knowingly and specifically adapted its Synergize OnRamp solutions for use in practicing the process taught in the '078 Patent.

D. MICRODEA'S CUSTOMIZED PROCESS USING SYNERGIZE ONRAMP SOLUTIONS FOR SCANNING, WIRELESSLY TRANSMITTING DOCUMENTS, AND PREPARING LOADING MANIFESTS HAS NO SUBSTANTIAL NONINFRINGING USE

92. R+L repeats and realleges the allegations contained in Paragraphs 1-91 above as if fully set forth herein.

93. Microdea's Synergize OnRamp solutions combine with the hardware of PeopleNet to specifically enable trucking companies to scan bills-of-lading from inside the truck cab. *See* Exhibit H.

94. Microdea's Synergize OnRamp solutions combine with wireless networks to specifically enable trucking companies to wirelessly transmit bills-of-lading from inside the truck cab to a remote facility. *See* Exhibit F.

95. Microdea's Synergize OnRamp solutions provide advanced dispatch software used by trucking customers to prepare advance loading manifests. *See* Exhibits F, G.

96. The reasonable inference to be drawn from the facts set forth in Paragraphs 92-95 of the Amended Complaint is that Microdea especially designs and customizes a process for trucking customers to use Synergize OnRamp solutions to scan and wirelessly transmit bills-of-lading from the truck cab to their back office for the preparation of loading manifests. R+L hereby asserts this reasonable inference as true.

97. As customized by Microdea for their trucking customers, the process for scanning and wirelessly transmitting bills-of-lading from the truck cab to the back office for the preparation of loading manifests has no other substantial non-infringing use.

E. MICRODEA'S CONTRIBUTORY INFRINGEMENT CAUSES HARM TO R+L

98. R+L repeats and realleges the allegations contained in Paragraphs 1-97 above as if fully set forth herein.

99. Microdea knowingly sells and offers to sell Synergize OnRamp solutions to customers who use them in conjunction with other applications and processes, and in a manner that infringes on the patented process claimed in the '078 Patent. Microdea's conduct amounts to contributory infringement in violation of 35 U.S.C. § 271(c).

100. Upon information and belief, Microdea has profited and will continue to profit from contributing to the infringement of the '078 Patent.

101. Microdea's actions with regard to contributing to the infringement of the '078 Patent has caused and will continue to cause R+L substantial and irreparable injury, for which R+L is entitled to receive injunctive relief and adequate compensatory damages.

102. Further, the actions of Microdea with regard to contributing to the infringement of the '078 Patent are willful such that R+L is entitled to treble damages under 35 U.S.C. § 284.

COUNT II—ACTIVE INDUCEMENT OF INFRINGEMENT

A. MICRODEA HAS ACTIVELY TAKEN STEPS TO ENCOURAGE DIRECT INFRINGEMENT OF THE '078 PATENT

1. Microdea's Website

103. R+L repeats and realleges the allegations contained in Paragraphs 1-102 above as if fully set forth herein.

104. Microdea's website, found at <http://www.microdea.com>, provides a comprehensive description of Microdea's services, products, fleet solutions, partnerships, press releases, contact information, customer testimonials, customer base, corporate structure, company history, business successes, awards, public recognitions, calendar of events, job openings, and privacy policies. Upon information and belief, Microdea regularly updates its website.

105. Microdea's website is publicly accessible, and nearly all of Microdea's webpages can be viewed without providing login or password information. Microdea's website is targeted to, and viewed by, potential customers in the trucking and transportation industry.

106. Microdea's website includes a product description of Synergize OnRamp solutions. The website provides a physical description of the Synergize OnRamp In-Cab scanner, the functions of Synergize OnRamp solutions, and the manner in which Synergize OnRamp solutions provide value to users. *See* Exhibit D.

107. Microdea uses its website to announce new innovations and deployments of its products, services, and technology to its trucking customers. For example, on its website, Microdea announced that "with its long time partner Fujitsu Canada and PeopleNet [Microdea] showcase[d] the new innovative In-Cab Scanning solution at Berry and Smith Trucking." *See* Exhibit I. Microdea also provides a link to the news article in the *Penticton Herald* attached hereto as Exhibit J.

108. The reasonable inference to be drawn from the facts set forth in Paragraphs 103-107 of the Amended Complaint is that Microdea actively and intentionally updates its website to promote its products and services to encourage potential customers to use those products in the manner described by Microdea. R+L hereby asserts this reasonable inference as true.

109. The further reasonable inference to be drawn from the facts set forth in Paragraphs 103-107 of the Amended Complaint is that Microdea actively takes steps to update its website to promote Synergize OnRamp solutions and its use with other devices and software to encourage customers to practice the process taught in the '078 Patent. R+L hereby asserts this reasonable inference as true.

2. Microdea's Press Releases

110. R+L repeats and realleges the allegations contained in Paragraphs 1-109 above as if fully set forth herein.

111. Microdea announces and advertises its product and service offerings through public press releases issued by its internal employees and displayed on Microdea's publicly-accessible website. Those press releases include announcements of strategic partnerships and alliances, industry and client recognition, and its corporate accomplishments and successes.

112. For example, Microdea announced that it provided Berry & Smith with in-cab scanning, and posted a link to an article in the *Penticton Herald* regarding Berry & Smith's roll-out of Microdea's technology in certain trucks in its fleet. *See* Exhibit I.

113. Microdea also announces and advertises its product and service offerings through trade journals and industry newsletters.

114. For example, in January 2009, *Heavy Duty Trucking Magazine* promoted Microdea's Synergize OnRamp In-Cab Scanning solution as one of the "Nifty Fifty" best new products of 2008. *See*

http://www.microdea.com/Heavy_Duty_Trucking_Magazine_2008_Best_New_Products.html, last visited March 29, 2010 (attached hereto as Exhibit O). Microdea provided a press release about this award on its website, and described its product by stating:

In Cab Scanning by Microdea is a rugged, small foot-print document scanner that can be mounted in the truck cab. Scanned documents are transmitted using the system's open interface and attached to In Cab communication systems, such as PeopleNet's g3 Services or other third party systems. Drivers can quickly and easily send documents to third party carriers, customers or the carrier's document management provider/system.

Id.

115. A reasonable inference to be drawn from the facts set forth in Paragraphs 110-114 of the Amended Complaint is that Microdea actively and regularly releases statements to the public, including to existing and potential customers, to entice them to purchase Microdea's products and services. R+L hereby asserts this reasonable inference as true.

116. Another reasonable inference to be drawn from the facts set forth in Paragraphs 110-114 of the Amended Complaint is that Microdea actively took steps to release statements to the public, including to existing and potential customers, about the deployment of Synergize OnRamp solutions in truck fleets to scan and wirelessly transmit bills-of-lading to the back office for the preparation of a loading manifest, in order to encourage others to practice the process taught in the '078 Patent using Microdea's Synergize OnRamp solutions. R+L hereby asserts this reasonable inference as true.

3. *Microdea's Participation in Trade Shows and Conferences*

117. R+L repeats and realleges the allegations contained in Paragraphs 1-116 above as if fully set forth herein.

118. Microdea regularly participates in and displays its products and services at national trade shows for demonstration to potential customers in the trucking and transportation industry. For example, Microdea's engagements scheduled for 2010 include:

- TMW Systems TransForum User Conference & Exhibition in Nashville on September 19-22, 2010; and
- IANA Intermodal Expo in Ft. Lauderdale on November 14-16, 2010.

See <http://www.microdea.com/upcoming-events.aspx> last visited on March 29, 2010 (attached hereto as Exhibit P).

119. Microdea encourages customers and potential customers to meet with company representatives during any of its scheduled appearances at trade shows and conventions. *Id.*

120. Microdea is also a regular exhibitor at the Transportation Intermediaries Association's annual expos. See <http://www.tianet.org/staticcontent/staticpages/2010prospectus.pdf> (attached hereto as Exhibit Q).

121. The reasonable inference to be drawn from the facts set forth in Paragraphs 117-120 of the Amended Complaint is that Microdea participates in national trade shows and conferences to actively encourage potential customers to purchase its products. R+L hereby asserts this reasonable inference as true.

122. Another reasonable inference to be drawn from the facts set forth in Paragraphs 117-120 of the Amended Complaint is that Microdea actively takes steps to display the Synergize OnRamp solutions at national trade shows and conferences and demonstrate how it can be used to scan and wirelessly transmit bills-of-lading to the back office for the preparation of a loading manifest, in order to encourage others to practice the process taught in the '078 Patent. R+L hereby asserts this reasonable inference as true.

4. *Microdea's Strategic Partnerships and Alliances*

123. R+L repeats and realleges the allegations contained in Paragraphs 1-122 above as if fully set forth herein.

124. Microdea maintains strategic partnerships with numerous corporations who serve clients in the transportation and trucking industry. According to Microdea, it "has become an

established leader in document management, imaging and workflow by providing a quality product and developing strong partnerships with other industry leaders.” *See*

<http://www.microdea.com/partners.html>, last visited March 29, 2010 (attached hereto as Exhibit R).

125. Furthermore, according to Microdea, “[e]ach partner brings exceptional knowledge and expertise resulting in solutions that integrate Knowledge Based information, business processes and applications with Microdea’s Synergize solutions.” *Id.*

126. Among Microdea’s partners is TMW Systems, a leading supplier of solutions covering the transportation services sector. *Id.*

127. Another of Microdea’s business partners is PeopleNet. PeopleNet pairs with Microdea’s In-Cab Scanning and document capture management software to provide customers with “advanced end-to-end document scanning, viewing, and workflow technologies to automate and streamline paper-intensive business processes.” *See* <http://www.peoplenetonline.com/Partners.aspx?id=89>, last visited March 29, 2010 (attached hereto as Exhibit S).

128. The reasonable inference to be drawn from the facts set forth in Paragraphs 123-127 of the Amended Complaint is that Microdea has actively taken steps to partner with other businesses to be able to promote and cross-sell its products and services to a larger target audience. R+L hereby asserts this reasonable inference as true.

129. Another reasonable inference to be drawn from the facts set forth in Paragraphs 123-127 of the Amended Complaint is that Microdea has actively taken steps to partner with TMW Systems and PeopleNet to encourage its trucking customers to scan and wirelessly transmit bills-of-lading to the back office for the preparation of a loading manifest, and directly

infringe the process taught in the '078 Patent. R+L hereby asserts this reasonable inference as true.

B. MICRODEA OFFERS TO SELL SYNERGIZE ONRAMP SOLUTIONS IN COMBINATION WITH OTHER DEVICES TO ENABLE ITS CUSTOMERS TO PRACTICE THE '078 PATENT

130. R+L repeats and realleges the allegations contained in Paragraphs 1-129 above as if fully set forth herein.

131. On its website, Microdea invites those interested in Synergize OnRamp solutions to contact Microdea by email or phone to obtain further information. *See* Exhibit D.

132. Microdea also offers interested individuals and potential customers with “secure and real time access to support calls and sales demos.” *See* <http://www.microdea.com/websupport.html>, last visited on March 29, 2010 (attached hereto as Exhibit T).

133. Microdea also invites interested individuals to schedule appointments with Microdea at any of its scheduled appearances at trade shows and conferences. *See* Exhibit P.

134. Microdea provides an e-mail address and phone number at the end of every press release for interested individuals to use to obtain further information. *See* Exhibit H.

135. The reasonable inference to be drawn from the facts set forth in Paragraphs 130-134 of the Amended Complaint is that Microdea has offered for sale, and continues to offer for sale, the Synergize OnRamp solution in combination with other services and devices, to enable potential customers to practice the process taught in the '078 Patent. R+L hereby asserts this reasonable inference as true.

C. MICRODEA WAS AWARE OF THE '078 PATENT WHEN IT ACTIVELY INDUCED INFRINGEMENT

136. R+L repeats and realleges the allegations contained in Paragraphs 1-135 above as if fully set forth herein.

137. R+L first filed its original complaint against Microdea on or around March 12, 2009 and served the complaint through the Hague Convention shortly thereafter. Before service was completed, Microdea's counsel contacted R+L to discuss the complaint and the allegations contained therein.

138. Thus, the reasonable inference to be drawn from the facts set forth in Paragraphs 136-137 of the Amended Complaint is that Microdea was aware of the '078 Patent as of March 2009, if not sooner.

139. Nevertheless, Microdea continues to take active steps to market and sell Synergize OnRamp solutions in combination with other services and devices to potential customers in the trucking and transportation industry.

140. Microdea continued to advertise on its website, after March 2009, the effectiveness of Synergize OnRamp solutions, when used specifically in combination with other services and devices, in practicing the process taught in the '078 Patent.

141. Microdea maintained strategic partnerships and alliances, after March 2009, to promote and cross-sell Synergize OnRamp Solutions, in combination with other services and devices, to practice the process taught in the '078 Patent.

142. Microdea's trucking customers, such as Berry & Smith and Pitt Ohio, continue to use Synergize OnRamp solutions in combination with other services and devices to scan and wirelessly transmit bills-of-lading from the truck cab to their back offices where the data is used

to prepare advance loading manifests in a manner that directly infringes the process taught in the '078 Patent.

143. The reasonable inference to be drawn from the facts set forth in Paragraphs 136-142 of the Amended Counterclaim is that Microdea knowingly and actively induces infringement of the '078 Patent.

D. MICRODEA'S ACTIVE INDUCEMENT OF INFRINGEMENT CAUSES HARM TO R+L

144. R+L repeats and realleges the allegations contained in Paragraphs 1-143 above as if fully set forth herein.

145. Based upon the facts and reasonable inferences asserted herein, Microdea knowingly and affirmatively sells, offers to sell, encourages, and intends for its customers to use Synergize OnRamp solutions in conjunction with other applications and processes, and in a manner that infringes on the patented process claimed in the '078 Patent. Microdea's conduct amounts to active inducement of infringement in violation of 35 U.S.C. § 271(b).

146. Upon information and belief, Microdea has profited and will continue to profit from actively inducing the infringement of the '078 Patent.

147. Microdea's actions with regard to actively inducing the infringement of the '078 Patent has caused and will continue to cause R+L substantial and irreparable injury, for which R+L is entitled to receive injunctive relief and adequate compensatory damages.

148. Further, the Microdea's actions with regard to actively inducing the infringement of the '078 Patent are willful such that R+L is entitled to treble damages under 35 U.S.C. § 284.

COUNT III—DECLARATORY JUDGMENT OF JUSTICIABLE CONTROVERSY

149. R+L repeats and realleges the allegations contained in Paragraphs 1-148 above as if fully set forth herein.

150. R+L alleges that Microdea indirectly infringes the '078 Patent today.

151. Microdea continues to deny any infringement of the '078 Patent today.

152. Therefore, there remains a justiciable controversy over whether Microdea infringes the '078 Patent.

153. This Court may declare the rights and other legal relations of the parties and issue a declaratory judgment that Microdea has infringed pursuant to 28 U.S.C. §§ 2201 and 2202 because this is a case of actual controversy within the Court's jurisdiction.

Demand for Relief

WHEREFORE, R+L respectfully requests that this Court enter judgment as follows:

- A. Declare that R+L is the owner of the '078 Patent;
- B. Preliminarily and permanently enjoin Microdea, its employees and agents, and any others acting in concert with Microdea, from contributing to and/or actively inducing the infringement of the '078 Patent;
- C. Award R+L its damages resulting from Microdea's contribution to and active inducement of the infringement of the '078 Patent;
- D. Award R+L treble damages pursuant to 35 U.S.C. § 284 as a result of Microdea's willfulness in contributing to and actively inducing the infringement of the '078 Patent;
- E. Declare that the nature of Microdea's infringement is "exceptional" pursuant to 35 U.S.C. § 285 and award R+L its costs and attorney fees; and
- F. Grant R+L such other relief as is just and proper.

Jury Demand

R+L demands a trial by jury to the extent permitted by applicable law.

/s/ Anthony C. White
Anthony C. White (0062146)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2010, I electronically filed the foregoing *R+L Carriers, Inc.'s First Amended Counterclaim* with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record, including the following:

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